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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/545,658	04/10/2000	Rick A. Briggs	CKING.036CP1	2398
20995	7590	10/11/2007	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			OMOTOSHO, EMMANUEL	
			ART UNIT	PAPER NUMBER
			3714	
			NOTIFICATION DATE	DELIVERY MODE
			10/11/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
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<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/545,658	BRIGGS ET AL.
	Examiner	Art Unit
	Emmanuel Omotosho	3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1)  Responsive to communication(s) filed on 22 June 2007.
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4)  Claim(s) 33-45,48-54 and 56-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 33-45,48-54,56-66 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>05/08/07</u>	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 33-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5865680 to Briggs in further view of **US Patent No. 6,426,741 B1 to Goldsmith** US Patent No. 5114155 to Tillery et al. and US Patent No. 6371375 B1 to Ackley et al.

3. In regards to claims 33-35, Briggs teaches an interactive gaming system comprising one or more play modules disposed within the play structure and sized and configured to receive or support one or more play participants playing in, on or around each said play module (Fig 1). Briggs further teaches the play modules comprising multiple play elements operatively associated with each said play module comprising one or more interactive games or challenges configured to be played or completed by one or more participants as part of an overall quest or mission (Fig 1 Paragraph 2 lines 20-40). Briggs also teaches the idea of the game challenges being completed in the proper order before another module can be played or completed (Paragraph 4 lines 22-25). Briggs further teaches using kinetic energy to operate one or more play elements (Paragraph 3 lines 1-5). Furthermore, Briggs reference teaches that any desirable

game theme can be implemented with the play structure (Paragraph 3 lines 3-5).

However, Briggs lacks in explicitly disclosing that the game theme is a wizardry/fairy type theme where the use of a portable indicium such as a wand as a play element is involve.

**4. Goldsmith teaches of wand that wirelessly sends illuminating signals to a device (abstract). The user operates the wand by moving the wand in a specific way (Par 1line 60-Par 2 line 15). The device in turn wirelessly derive the velocity and positional data of the motion impacted by the user (Par 2 lines 5-18), it then interprets the illuminating signal and the derived data in order to perform a predetermined operation based on the interpretation. Goldsmith further teaches that the invention is not limited to sending illuminating signals, that the information could also be conveyed to the device through the use of radio frequency waves.**

**5. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have implemented a wizardry/fairy type game theme with Briggs play structure where one of the play elements comprises of Goldsmith's wand (Goldsmith teaches the application of the invention in a gaming environment Par 3 lines 10-12 and 26-30) where in the kinetic energy required to activate such play element is shaking, waving, stroking, and/or tapping. This will further add to the entertaining factor of Briggs invention (Briggs Page 1 lines 9-11). The motivation comes from Briggs Paragraph 3 lines 3-5 where it states that other game themes could be implemented.**

6. In regards to claim 36 and 62, Briggs teaches the play structure to be a multi-level play structure (Paragraph 5 lines 9-13).
7. In regards to claims 38,50,53 and 64, Briggs teaches the play modules arranged sequentially and interconnected by one or more slides such that a first group of games or challenges associated with a first play module are necessary to be played or completed before a second group of games or challenges associated with a second play module can be played (Paragraph 5 lines 46-57 Paragraph 9 lines 38-47).
8. In regards to claims 41 and 51 Briggs teaches the game system further comprising one or more challenge connections bridging two or more play modules, comprising a slide, rope bridge, trolley, swing, cargo net or ladder (Paragraph 5 lines 46-57).
9. In regards to claims 37,39,40, 42-49, 52, 54-61,63 and 65-66 Briggs and Goldsmith teaches the features of all the present invention as described above but lacks in explicitly disclosing
  - a. A scoreboard for displaying the progress of the participants
  - b. Storing and receiving data through the use of radio frequency without the use of a central network system
  - c. Actual storage of a player progress data and identification on a portable indicium and allowing access and determination of player progress with or without a central network system
10. Tillery teaches the idea of storing a player's progress data and identification data during a game session (lines 12-17 of abstract; Fig. 1, #60 and #45; player card readers

#45 read and write to the player cards- col. 4, lines 42-46). The examiner further interprets this as communicating with a read/write devices that is associated with the interactive game/challenge. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include this feature disclosed by Tillery in the system of Briggs modified by Goldsmith. This feature would provide the system a way to facilitate the saving/pausing of a game especially in the common gaming case where the player leaves the game for a bathroom break.

11. Tillery also teaches the idea of displaying players progress and standings on a display (scoreboard) (Abstract last line). It would have been obvious to a person of ordinary skill in the art at the time of the invention to include the display feature disclosed by Tillery in the system of Briggs modified by Goldsmith. This feature would aid the players in analyzing their current standings and progress in the game.

12. However, Tillery still fail to explicitly disclose the actual storage of a player progress data and identification on a portable indicium and allowing access and determination of player progress through the use of radio frequencies with or without a central network system

13. Ackley et al. teaches a method for associating data with a wireless memory device. Ackley et al. further teaches that the method can be used for storing and retrieving data, utilizing radio frequency tag having a memory for storing the data with a first identifier stored in memory (Abstract). Therefore, it would have been obvious for someone of ordinary skill in the art at the time of invention to incorporate Ackley et al.'s method into the wand as a way of tracking the wand/player and wirelessly monitoring

the challenges/spell successfully casted by player. This will also further provide a more compact and cheaper play structure since the system is wireless and no central network system is required.

14. In regards to claim 43, Briggs teaches the facility comprises one or more play modules sized and configured to receive or support said one or more play participants playing in, on or around each said play module (Fig 1.).

#### ***Response to Arguments***

Applicant's arguments filed 6/22/07 have been considered but are moot in view of the new ground(s) of rejection. Please see the added highlighted paragraphs above.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel Omotosho whose telephone number is (571) 272-3106. The examiner can normally be reached on m-f 10-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EO

*Ronald Laneau*  
RONALD LANEAU  
PRIMARY EXAMINER

9/30/07